

LME-MCO Appeal Process (per federal CFR 438.400)

Within a managed care waiver environment Medicaid recipients have very clear appeals and due process rights that are protected by state and federal law. If a Local Management Entity-Managed Care Organization (LME-MCO) denies, reduces, suspends, or terminates a service the service recipient must be notified and has the right to appeal. Only the service level or type can be appealed; the duration of a service authorization, or how long a service can be received, is not something that can be appealed. At least 10 days before the service reduction, suspension, or termination the LME-MCO is required to provide detailed information about the appeals process in a written notice so that the recipient may file in a timely manner. Below is a summary of that process.

Level 1: Reconsideration

If the recipient files an appeal within 30 days of the service change they have the right to request Reconsideration. Reconsideration must be completed within 45 days from the date the reconsideration request was received. The service recipient can review any information used as part of the Reconsideration process and may also submit additional information that supports the level of service being requested. Reconsideration is a record review conducted by the LME-MCO but must be conducted by a licensed professional who did not have any role in the original decision to reduce, deny, suspend, or terminate the service that is being appealed. The recipient may examine his/her medical records during the appeal the process. Discussions can occur during Reconsideration between the individual and the LME-MCO reviewer and agreements can be reached on the types and amount of services and supports to provide to the service recipient.

Reconsideration is process that occurs only in waiver sites. Recipients must utilize the Reconsideration process before being able to use the State Fair Hearing process. A recipient can appeal the Reconsideration decision and may submit an appeal to the North Carolina Office of Administrative Hearings (OAH). Information on this process is included in notification of the Reconsideration decision.

Level II: Mediation

The appeal of a Reconsideration decision must be filed with 30 days of that decision to the North Carolina Office of Administrative Hearings (OAH). After filing, the individual is offered the opportunity to accept Mediation. If Mediation is accepted, it must be completed within 25 days of the request. A mediator from the Mediation Network of North Carolina is assigned to the case. The recipient may choose to have Mediation by telephone or at the mediator's office. The recipient may bring information to support the need for services based on medical necessity.

If Mediation is declined or is unsuccessful, the appeal proceeds to a hearing at the Office of Administrative Hearings (OAH). This level of appeal is currently available through the state Fair Hearings process.

Level III: Office of Administrative Hearings

If the recipient is not satisfied with the Mediation process, they may proceed to the OAH hearing. After the hearing an administrative law judge will make a recommendation regarding the case. This level of appeal is currently available through the state Fair Hearings process.

Level IV: Final Agency Decision

The North Carolina Division of Medical Assistance (DMA) reviews the entire process and the recommendation from the OAH hearing. The recipient, LME-MCO, and Department of Health and Human Services (DHHS) all provide written explanations as to why they agree or disagree with the OAH decision. DMA will uphold or reverse the OAH decision and issue a written Final Agency Decision. This level of appeal is currently available through the state Fair Hearings process. If the NC Division of Medical Assistance final decision is not decided in favor of the service recipient (i.e. they uphold the decision of the LME-MCO to deny, reduce, suspend, or terminate services) the individual may retain an attorney and appeal the case to Superior Court.

Continuation of Benefits

The LME-MCO must continue the service during the Reconsideration process and during the State Fair Hearing if all of the following are met:

- The Reconsideration is requested within 30 days
- The Reconsideration involves the termination, suspension, or reduction of a currently authorized service
- The service was ordered by an authorized provider
- The current service authorization has not expired
- The enrollee requests a continuation of the service

The service must continue until:

- The recipient withdraws from the Reconsideration process
- Ten days after the Reconsideration decision is made, unless the recipient requests a State Fair Hearing within those 10 days
- A State Fair Hearing decision is made against the recipient
- The service authorization expires

If the final appeal decision is against the recipient, the recipient is responsible for the cost of the services provided during the Reconsideration and/or State Fair Hearing processes.